

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Intended Action

Proposing rule making related to exemption for containment of soil conditioners and providing an opportunity for public comment

The Agriculture and Land Stewardship Department hereby proposes to amend Chapter 44, “On-Site Containment of Pesticides, Fertilizers and Soil Conditioners,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 200.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 200.14.

Purpose and Summary

This proposed rule making provides a new exemption for soil conditioners consisting of minimally manipulated manures from certain secondary containment requirements. In order to ensure continued protection of the environment, different storage and containment requirements are put in place for these types of soil conditioners, which mostly consist of organic material.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 21—Chapter 8.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on July 23, 2021. Comments should be directed to:

Colin Tadlock
Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Phone: 515.281.7808
Email: colin.tadlock@iowaagriculture.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

July 30, 2021
10 to 11 a.m.

Second Floor Conference Room
Wallace State Office Building
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** definitions of “Minimally manipulated manures” and “Minimally processed” in rule **21—44.51(200)**:

“*Minimally manipulated manures.*” Minimally processed substances composed primarily of excreta, plant remains, or mixtures of such substances.

“*Minimally processed.*” Processing a nonliquid manure in a manner which does not modify the nutrient value on a dry matter basis.

ITEM 2. Amend rule 21—44.56(200), introductory paragraph, as follows:

21—44.56(200) Secondary containment for nonliquid fertilizers and soil conditioners. Nonliquid fertilizer and soil conditioner stored in a totally enclosed building and a soil conditioner meeting the requirements of subrule 44.56(3) are exempt from the requirements of this rule. Unless stored in a totally enclosed building, or soil conditioners meeting the requirements under subrule 44.56(3), all nonliquid fertilizer and soil conditioner materials shall be stored within an area which drains into a secondary containment structure. The secondary containment structure shall have a volume sufficient to retain the equivalent of 12 inches of runoff from the area drained into the containment structure. This minimum storage volume may be provided within the containment structure or in auxiliary storage tanks, and may be constructed of earth, concrete, or a combination of both.

ITEM 3. Adopt the following **new** subrule 44.56(3):

44.56(3) Soil conditioners consisting entirely of minimally manipulated manures are exempt from the requirements of this rule if all of the following apply to the storage of the soil conditioner:

- a. The soil conditioner is stored in an impermeable container.
- b. The soil conditioner is stored in the field of application or adjacent fields of application and the amount stored does not exceed the necessary amount of nitrogen, phosphorus, or potassium to achieve optimal crop yields, as determined by average county or proven yields, on the acres in the fields of application. The total potential acres of application stored in any field shall not exceed an amount necessary for application on 160 acres.
- c. The soil conditioner is stored in the field for a period not to exceed six months.
- d. The soil conditioner meets all of the storage requirements for bulk dry animal nutrients under rule 21—49.7(200A).